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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,246	09/17/2003	Todd A. Stiers	IDET1270-1	3741
44654	7590	07/21/2005	EXAMINER	
SPRINKLE IP LAW GROUP 1301 W. 25TH STREET SUITE 408 AUSTIN, TX 78705			FRANKLIN, RICHARD B	
			ART UNIT	PAPER NUMBER
			2182	

DATE MAILED: 07/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/664,246	STIERS ET AL.
Examiner	Art Unit	
Richard Franklin	2182	

*– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –*

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 17 September 2003.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-64 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-64 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 17 September 2003 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 02/27/2004.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_.

1. Claims 1 – 64 have been examined.

***Claim Rejections - 35 USC § 112***

2. Claim 38 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 38 recites the limitation "the method" in line 1. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 4 – 9, 11, 12 – 15, 17, 20 – 25, 27 – 31, 49, 52 – 57, 59, and 60 – 63 are rejected under 35 U.S.C. 102(e) as being anticipated by Son et al. (US Patent Publication No. 2002/0026645 A1).

6. As per Claims 1, 13, 14, 17, 29, 30, 49, 61, and 62, Son et al. disclose an apparatus to distribute content over different types of networks. They describe a method and apparatus that accepts raw data is provided to a head end. That

data is decoded from the format that it is received in, and re-encoded into packets, splitting up the data that was received (Paragraphs [0028] and [0033], Figures 3A and 3B). The content that has been split up is converted into various different packet formats (Paragraph [0036]). The content can be encapsulated into an Internet Protocol (IP) packet to be sent to a device (Paragraph [0036]).

When a device has made a request for a specific video, part of the head end called the stream caching server retrieves the specific content requested to send to the device (Paragraphs [0039] and [0040]).

7. As per Claims 4 – 6, 20 – 22, and 52 – 54, Son et al. disclose that the system described above as pertains to Claims 1, 13, 14, 17, 29, 30, 49, 61, and 62 further includes a system for transmitting data to the device through a Quadrature Amplitude Modulation (QAM) channel over a network. The device that is to receive the content has a modem that can demodulate the content at the device for processing or viewing (Paragraph [0041]). The content that is sent from the content distribution apparatus is contained in a Real-Time Transfer Protocol (RTP) packet (Paragraph [0031]). It is inherent that RTP packets include information in their headers that about the format of the data in the RTP payload to determine the how the device interprets the data.

8. As per Claims 7, 23, and 55, Son et al. disclose that the system described above as pertains to Claims 1, 13, 14, 17, 29, 30, 49, 61, and 62 includes selecting the video to send to the device. Son et al. also disclose that the selection is base on a request sent by the device (Paragraphs [0039] and [0040]).

9. As per Claims 8, 9, 24, 25, 56, and 57, Son et al. disclose that information is sent to the device as a result of a request sent from the device. The request from the device tells the content distribution apparatus what data it wants to be sent (Paragraphs [0039] and [0040]).

10. As per Claims 11, 12, 27, 28, 59, and 60, Son et al. disclose that the system described as pertains to Claims 1, 13, 14, 17, 29, 30, 49, 61, and 62 includes data packets which are sized to hold additional information about the data in the packet. Son et al. describe an example of including program system information (PSI) with a Motion Pictures Expert Group (MPEG) packet (Paragraph [0037]).

11. As per Claims 15, 31, and 63, Son et al. disclose the system described as pertains to Claims 1, 13, 14, 17, 29, 30, 49, 61, and 62 where the requester can select content from any point of presence or server that is networked to the Internet. The distribution system described above as pertains to Claims 1, 13, 14, 17, 29, 30, 49, 61, and 62 can retrieve data from and type of information that is distributed by a server (Paragraph [0050]).

### ***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 33, 36 – 41, 43, and 44 – 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Son et al. (US Patent Publication No. 2002/0026645 A1) as applied to Claims 1, 4 – 9, 11, 12 – 15, 17, 20 – 25, 27 – 31, 49, 52 – 57, 59, and 60 – 63 above in view of Flom et al. (US Patent Publication No. 2001/0054087 A1).

Son et al. do not teach that the content distribution system and device are connected to a wireless network.

Flom et al. teach a content distribution system for distributing content over wireless or wired Internet to portable devices (Flom, Abstract lines 1 – 3). Portable devices can include and are not limited to handheld computers, laptops, vehicle computers, or wireless phones (Flom, Paragraph [0056]).

It would have been obvious to one of ordinary skill in the art at the time of invention to connect the content distribution apparatus and device of Son et al. on the wireless Internet of Flom et al., because Flom's teaching of a wireless network allows for portability of the device and content distribution system.

14. Claims 2, 3, 18, 19, 50, and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Son et al. (US Patent Publication No. 2002/0026645 A1) as applied to Claims 1, 13, 14, 17, 29, 30, 49, 61, and 62 above in view of TechTarget (<http://whatis.techtarget.com>).

Son et al. teach that content in the distribution apparatus is stored on a storage medium in different formats (Son, Paragraph [0036], Figure 1).

Son et al. do not teach the digitizing of the content that is to be distributed to the device.

TechTarget teaches the conversion of analog signals to digital signals using an analog-to-digital converter or ADC.

It would have been obvious to one of ordinary skill in the art at the time of invention to convert an analog signal to a digital signal and store the digital signal on the storage medium of Son et al. According to TechTarget, digital signals are able to propagate more efficiently and are easier to distinguish from noise than analog signals.

15. Claim 10, 26, and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Son et al. (US Patent Publication No. 2002/0026645 A1) as applied to Claims 8, 9, 24, 25, 56, and 57 above in view of Rakib et al. (US Patent No. 6,889,385).

Son et al. do not teach that updating the selection criteria includes analyzing the bandwidth of the device.

Rakib et al. teach that criteria for selecting and compressing packets are updated from available bandwidth information (Rakib, Col 11 lines 24 – 31).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the selection and compression bandwidth criteria of Rakib et al. in the system of Son et al. Doing so would enable Son's system to ensure the bandwidth of the device is used correctly.

16. Claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Son et al. (US Patent Publication No. 2002/0026645 A1) in view of Flom et al. (US Patent Publication No. 2001/0054087 A1) as applied to

Claims 33, 36 – 41, 43, and 44 – 47 above in further view of TechTarget (<http://whatis.techtarget.com>).

Son et al. teach that content in the distribution apparatus is stored on a storage medium in different formats (Son, Paragraph [0036], Figure 1).

Son et al. do not teach the digitizing of the content that is to be distributed to the device.

TechTarget teaches the conversion of analog signals to digital signals using an analog-to-digital converter or ADC.

It would have been obvious to one of ordinary skill in the art at the time of invention to convert an analog signal to a digital signal and store the digital signal on the storage medium of Son et al in view of Flom et al. According to TechTarget, digital signals are able to propagate more efficiently and are easier to distinguish from noise than analog signals.

17. Claims 16, 32, and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Son et al. (US Patent Publication No. 2002/0026645 A1) as applied to Claims 15, 31, and 63 in view of Flom et al. (US Patent Publication No. 2001/0054087 A1) and in further view of Rakib et al. (US Patent No. 6,889,385).

Flom et al. teaches sending and receiving data over a wireless network.

Son – Flom do not teach that the data is a television broadcast and the device is a telephone.

Rakib et al. teach a system similar to that of Son – Flom. Rakib et al. disclose that the data to send to the devices are television programs (Rakib, Col

10 lines 52 – 57). Rakib et al. also teach that the devices connected to the system could comprise a phone or video phone (Rakib, Figures 2 and 3).

It would have been obvious to one of ordinary skill in the art at the time of invention to include the television programs and phone devices of Rakib et al. in the Son – Flom system, because doing so would add and expand the flexibility of the Son – Flom system by allowing a mobile user to access television programs from phone devices.

18. Claims 42, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Son et al. (US Patent Publication No. 2002/0026645 A1) in view of Flom et al. (US Patent Publication No. 2001/0054087 A1) as applied to Claims 33, 36 – 41, 43, and 44 – 47 above in further view of Rakib et al. (US Patent No. 6,889,385).

Son – Flom do not teach that the data is a television broadcast. Son – Flom do not teach that updating the selection criteria includes analyzing a bandwidth of the device.

As per Claim 42, Rakib et al. teach that criteria for selecting and compressing packets are updated from available bandwidth information (Rakib, Col 11 lines 24 – 31).

As per Claim 48, Rakib et al. teach a system similar to that of Son et al. Rakib et al. disclose that the data to send to the devices are television programs (Rakib, Col 10 lines 52 – 57).

It would have been obvious to one of ordinary skill in the art at the time of invention to include the bandwidth selection criteria and the television programs

Art Unit: 2182

of Rakib et al. in the Son – Flom system. Doing so would enable the Son – Flom system to ensure the bandwidth of the device is used correctly.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Franklin whose telephone number is (571)272-0669. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on (571)272-4083.

Mailed responses to this action should be sent to:

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Faxes for Official/formal (After Final) communications or for informal or draft communications (please label "PROPOSED" or "DRAFT") sent to:

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Hand-delivered responses should be brought to:

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Arlington, VA, 22202 Crystal Park II, 2121.

Richard Franklin  
Patent Examiner  
Art Unit 2182

A handwritten signature in black ink, appearing to read "Richard Franklin" above "Patent Examiner" and "Art Unit 2182".